

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JEFFREY GASKINS,

Petitioner,

v.

BARRY D. DAVIS,

Respondent.

Case Number 09-14253-BC

Honorable Thomas L. Ludington

Magistrate Judge Paul J. Komives

**ORDER ADOPTING REPORT AND RECOMMENDATION, DENYING PETITION
FOR HABEAS CORPUS, DENYING PETITIONER A CERTIFICATE OF
APPEALABILITY, AND DENYING PETITIONER LEAVE TO PROCEED IN FORMA
PAUPERIS ON APPEAL**

This matter is before the Court on a report issued by Magistrate Judge Paul Komives on July 26, 2010. Judge Komives recommends denying Petitioner's application for a writ of habeas corpus and denying Petitioner a certificate of appealability. As of today's date, no party has filed any objections to the magistrate judge's report and recommendation. The election to not file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [Dkt # 11] is **ADOPTED**.

It is further **ORDERED** that the petition for writ of habeas corpus [Dkt. # 1] is **DENIED**.

It is further **ORDERED** that Petitioner is **DENIED** a certificate of appealability.

It is further **ORDERED** that Petitioner is **DENIED** leave to proceed in forma pauperis on appeal, because the appeal would be frivolous. *See* Fed. R. App. P. 24(a).

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: August 24, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 24, 2010.

s/Tracy A. Jacobs
TRACY A. JACOBS